

Hon. Ricardo S. Martinez

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

JENNIFER P. SCHWEICKERT,

Plaintiff,

vs.

HUNTS POINT VENTURES, INC.; HUNTS  
POINT VENTURE GROUP, LLC; CHAD  
and ELIZABETH RUDKIN, and their marital  
community comprised thereof; JOHN DU  
WORS and AMBER DU WORS, and their  
marital community comprised thereof; and  
DOES 1-4,

Defendants.

No. 13-CV-675RSM

DEFENDANTS DU WORS' MOTION  
IN LIMINE

**Noting Date: January 2, 2015**

**I. INTRODUCTION**

Pursuant to Federal Rules of Evidence 402, 403, and 404, defendant John Du Wors seeks a ruling in limine that plaintiff may not introduce evidence of prior lawsuits or claims against him or his colleagues at the law firm Newman & Du Wors.

**II. STATEMENT OF FACTS**

Plaintiff's boyfriend, Mark Phillips, is represented by the same attorneys as plaintiff, and he has a pending lawsuit against Mr. Du Wors and his colleagues. Plaintiff's mother, Joyce Schweickert, also has a pending lawsuit against Mr. Du Wors and his colleagues. Defendant anticipates Plaintiff may attempt to introduce evidence of other lawsuits, claims, or

1 complaints against Defendant and/or other attorneys at his firm, and defendant asks the Court  
2 to rule in limine that such evidence should be excluded.

### 3 4 **III. STATEMENT OF ISSUE**

5 Should evidence of past lawsuits, claims, and complaints against Defendant John  
6 Du Wors and/or other attorneys at his firm be excluded in limine?

### 7 **IV. ARGUMENT AND AUTHORITY**

#### 8 **A. The evidence is not relevant.**

9 “Irrelevant evidence is not admissible.” Fed. R. Evid. 402. Evidence is relevant if “it  
10 has any tendency to make a fact more or less probable than it would be without the evidence,  
11 and the fact is of consequence in determining the action.” Fed. R. Evid. 401. The central  
12 factual dispute in this lawsuit is whether, during a single telephone conversation between  
13 Plaintiff and Defendant, with a nonparty on the line, Defendant made material and false  
14 representations to Plaintiff to induce her to loan money to a nonparty. Whether anyone  
15 (especially persons with relationships so close to Plaintiff) has ever made a claim, lawsuit, or  
16 complaint against Defendant or one of his colleagues is not relevant. It has no tendency to  
17 make any of the facts in this lawsuit more or less probable—prior lawsuits, claims, or  
18 complaints do not make Plaintiff’s version of the facts of that telephone call more likely to be  
19 true. Even more attenuated is the connection between Defendant’s colleagues’ conduct and  
20 events at issue in this lawsuit.

#### 21 **B. Were the evidence relevant, its probative value is substantially outweighed 22 by other considerations.**

23 “The court may exclude relevant evidence if its probative value is substantially  
24 outweighed by a danger of one or more of the following: unfair prejudice, confusing the issues,  
25 misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.”  
Fed. R. Evid. 403. Should the Court determine the evidence is relevant, over Defendant’s

objection, permitting a jury to hear it would be unfairly prejudicial, confusing, misleading, and wasteful. Attorneys face claims, lawsuits, and complaints more frequently than the general populace. Often such claims are frivolous or are adjudicated in the attorney's favor. However, a jury could reach the mistaken conclusion that being sued amounts to unlawful conduct, which would be unfairly prejudicial. In addition, having to explain to a jury the substance of the unrelated claims and defenses introduces all sorts of confusing and misleading issues. It would also waste the time of the parties, the judge, and the jury.

**C. The evidence is presented to attempt to prove bad character.**

"Evidence of a . . . wrong or other act is not admissible to prove a person's character in order to show that on a particular occasion the person acted in accordance with the character." Fed. R. Evid. 404(b)(1). Defendant requests the evidence be excluded in limine so that Plaintiff does not attempt to use evidence of other lawsuits, claims, or complaints impermissibly.

**V. CONCLUSION**

Each of the bases above is an independent reason to exclude the evidence at issue, and Defendant requests the Court to make a ruling in limine.

Respectfully submitted this 15th day of December, 2014.

LEE SMART, P.S., INC.

By: /s/ Pamela J. DeVet  
 Sam B. Franklin, WSBA No. 1903  
 Pamela J. DeVet, WSBA No. 32882  
 Lee Smart, P.S., Inc.  
 701 Pike St, Ste. 1800  
 Seattle, WA 98101  
 Telephone 206-624-7990  
 Fax 206-624-5944  
[sbf@leesmart.com](mailto:sbf@leesmart.com)  
[pjd@leesmart.com](mailto:pjd@leesmart.com)  
 Attorneys for Defendants Du Wors

**CERTIFICATE OF SERVICE**

I hereby certify that on the date provided at the signature below, I electronically filed the preceding document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following individuals:

Mr. Reed Yurchak  
Law Office of Reed Yurchak  
40 Lake Bellevue Drive, Suite 100  
Bellevue, WA 98005  
[yurchaklaw@gmail.com](mailto:yurchaklaw@gmail.com)

Mr. Mark D. Kimball  
Law Office of Mark Douglas Kimball, P.S.  
10900 Northeast Fourth Street, Suite 2030  
Bellevue, WA 98004  
[mark@mdklaw.com](mailto:mark@mdklaw.com)

Mr. Joel B. Ard  
Mr. Rylan LS. Weythman  
Foster Pepper, LLC  
1111 Third Avenue, Suite 3400  
Seattle, WA 98101  
[ardjb@foster.com](mailto:ardjb@foster.com)

Mr. T. Jeffrey Keane  
Keane Law Offices  
100 NE Northlake Way, Ste. 200  
Seattle, WA 98105  
[tjk@tjkeanelaw.com](mailto:tjk@tjkeanelaw.com)  
[weytr@foster.com](mailto:weytr@foster.com)

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge.

EXECUTED this 15<sup>th</sup> day of December, 2014, at Seattle, Washington.



Jennifer A. Jimenez, Legal Assistant